IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE ELEVENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION No. 4839 of 2005

Between:

Md.Zameeruddin, S/o.Ameeruddin, Driver E.No.175125,
R/o.17-548, Near ST Hostel,
Devarakonda, Nalgonda District.

..... PETITIONER

AND

1 The Regional Manager, APSRTC, Nalgonda Region, Nalgonda District.
2 The Divisional Manager, APSRTC, Nalgonda Division, Nalgonda District.
3 The Depot Manager, APSRTC, Yadagirigutta Bus Depot, Nalgonda District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order, direction or writ more particularly one in the nature of writ of Mandamus declaring the action of the 3rd respondent in issuing the proceeding No.E3/2(1)/2001-YGT, dated 5-9-2001 as illegal, arbitrary and unjust and consequently set aside the proceeding No.E3/2(1)/2001-YGT, dated 5-9-2001 issued by the 3rd Respondent and pass such further other order or orders as this Hon'ble court may deem fit and proper under the circumstances of the case.

Counsel for the Petitioner: MR.G.RAVI MOHAN

Counsel for the Respondent Nos.1 to 3: MR.V.T.M.PRASAD

The Court at the stage of admission made the following:

ORDER:

Declaring the action of the 3rd respondent in imposing major penalty vide proceedings No.E3/2(1)/2001-YGT dated 05.09.2001, as illegal and arbitrary, the present writ petition is filed.

The petitioner is working as a Driver in the respondent Corporation. He was charged for negligence in his duties and for causing a fatal accident. He submitted his explanation. The 3rd respondent passed an order on 05.09.2001 without conducting any enquiry by imposing a penalty of deferment of annual increment for a period of two years, which shall have effect on future increments of the petitioner. The petitioner preferred an appeal to the appellate authority and the same was rejected. Hence the writ petition.

2. The grievance of the petitioner is that since it is a major punishment, it cannot be maintained unless it is imposed after holding an enquiry and giving an opportunity to the petitioner. Therefore, he approached this Court through this writ petition to declare that the action of the respondents is illegal and to direct the respondents to add the deferred increments.

3. It is well settled that denial of increments with cumulative effect tantamount to a major penalty, and such penalty cannot be imposed by the disciplinary authority without holding a regular departmental enquiry in terms of relevant service regulations.

4. Having regard to the facts and circumstances of the case, the punishment of major penalty of deferment of annual increment for a period of two years with cumulative effect, imposed by the 3rd respondent, can be reduced with slight modification. Therefore, the impugned order of punishment is modified as deferment of annual increment for a period of two years without cumulative effect. The petitioner is not entitled for the difference of the amount, if any, by virtue of this Order, but he is entitled to get the increment on notional calculation from the date of this Order, to which, he is entitled.

5. The writ petition is, accordingly, disposed of. No costs.

Dated: 11.03.2005

Dsr

ASSISTANT REGISTRAR

To:

1. The Regional Manager,

APSRTC, Nalgonda Region,

Nalgonda District

2. The Divisional Manager, APSRTC,

Nalgonda Division, Nalgonda District

3. The Depot Manager, APSRTC,

Yadagirigutta Bus Depot, Nalgonda District

4. Two CD copies

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